



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MAY 22 2013

Steven S. Lucas, Esq.  
Nielsen, Merksamer, Parrinello, Gross & Leoni LLP  
2350 Kerner Blvd. Suite 250  
San Rafael, CA 94901

RE: MUR 6689  
Jim C. Walton

Dear Mr. Lucas:

On November 13, 2012, the Federal Election Commission notified Jim C. Walton of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 7, 2013, the Commission found, on the basis of the information in the complaint, and information provided by the respondents, that there is no reason to believe your client violated 2 U.S.C. § 441a(a)(3). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). A Factual and Legal Analysis further explaining the basis for the Commission's decision is enclosed.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Anthony Herman  
General Counsel

BY: Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
Factual & Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Jim C. Walton

MUR 6689

**I. INTRODUCTION**

This matter was generated by a Complaint filed by Grace Sheedy alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). It was scored as a low-rated matter under the Enforcement Priority System, a system by which the Federal Election Commission ("Commission") uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

**II. FACTUAL AND LEGAL ANALYSIS**

The Complaint alleges that, during 2007 and 2008 (the "time period"), Jim C. Walton ("Walton") violated the biennial limit on contributions to federal candidates at 2 U.S.C. § 441a(a)(3). Compl. at 1-2.<sup>1</sup> Specifically, according to the Complaint, Walton contributed \$46,100 to federal candidates. *Id.* at 2. The Complaint provides a chart listing contributions from Walton to federal candidates, seemingly drawn on Commission records. Compl., Ex. A. On that chart are two contributions from Walton to John McCain 2008, Inc., Senator John McCain's 2008 presidential primary committee, and Joseph Schmuckler in his official capacity as treasurer ("McCain 2008"), totaling \$4,600 and two contributions from Walton to McCain-Palin Compliance Fund, Inc. and Joseph Schmuckler in his official capacity as treasurer ("GELAC"), totaling \$4,300.<sup>2</sup> *Id.* As a consequence, according to the Complaint, Walton

<sup>1</sup> During the time period, individuals could contribute \$42,700 to federal candidates and their authorized committees and \$65,500 to party committees and other political committees. Price Index Increases for Expenditure and Contribution Limitations, 72 Fed. Reg. 5294, 5295 (Feb. 5, 2007) ("Contribution Limit Increases").

<sup>2</sup> A major party candidate for president who receives public funding for the general election is permitted to accept contributions designated for a general election legal and accounting compliance fund, or GELAC, which is a special account used to pay legal and accounting expenses incurred in complying with Federal law. See 11 C.F.R. § 9003.3(a)(1).

1 exceeded the biennial limit of \$42,700 on contributions to federal candidates by \$3,400. *Id.*  
2

3 Separately, with respect to the \$4,300 in contributions to GELAC, the Complaint  
4 observes that GELAC contributions are subject to the Act's contribution limits, *see* 11 C.F.R.  
5 § 9003.3(a)(1)(i)(B), which were \$2,300 per individual per election during the 2008 election  
6 cycle. Compl. at 2. Therefore, the Complaint asserts that Walton appears to have contributed  
7 almost twice the allowable amount to GELAC. *Id.* at 1-2; *see also* Compl., Exh. A.

8 Walton maintains that he did not make excessive contributions. According to Walton, he  
9 made a contribution of \$2,300 to McCain 2008 in May 2008 and a \$4,300 contribution to  
10 McCain Victory 2008, a joint fundraising committee, and Lisa Lisker in her official capacity as  
11 treasurer ("McCain Victory"), in August 2008. Walton Resp. at 1. Walton states that, when he  
12 made the \$4,300 contribution to McCain Victory, he instructed McCain Victory to allocate  
13 \$2,000 of his contribution to the Republican National Committee and \$2,300 to GELAC. *Id.* at  
14 1; *see also* Attached August 7, 2008, Memorandum to McCain Victory. Instead, in what appears  
15 to have been a processing error, on August 29, 2008, McCain Victory allocated his contribution  
16 as follows: \$2,300 to McCain 2008 (the wrong amount to an incorrect recipient) and \$2,000 to  
17 GELAC (the wrong amount to the correct recipient). *Id.* at 1-2.<sup>3</sup>

18 The transfer to McCain 2008, when aggregated with Walton's May 2008 \$2,300  
19 contribution to McCain 2008, would have resulted in an excessive contribution to McCain 2008,  
20 as well as a contribution of \$2,000, instead of \$2,300, to GELAC. The record reflects, however,

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<sup>3</sup> According to Walton, it appears that the Complaint may have double-counted the single \$4,300 contribution to McCain Victory. *Id.* at 2.

1 that both of the misallocated contributions were returned to McCain Victory, which then  
2 complied with the donor's intent. Walton Resp. at 1.<sup>4</sup>

3 Walton further explains that, by subtracting the total of the two contributions initially  
4 misallocated by McCain Victory (\$4,300) from the \$46,100 figure set forth in the Complaint, the  
5 total contributed by Walton to federal candidates is \$41,800, which is within the \$42,700 limit.  
6 *Id.*; see also Compl., Ex. A. Moreover, subtracting the \$2,000 initially distributed by McCain  
7 Victory to GELAC from the \$4,300 figure cited in the Complaint leaves a total of \$2,300, the  
8 amount ultimately distributed by McCain Victory to GELAC, which was within permissible  
9 limits. *Id.*

10 Based on the facts presented, it appears that Walton did not make excessive  
11 contributions, as described in the Complaint. Therefore, there is no reason to believe that Jim  
12 C. Walton violated 2 U.S.C. § 441a(a)(3).

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<sup>4</sup> After reviewing GELAC's financial disclosure reports, the Commission was unable to pinpoint whether GELAC transferred the original \$2,000 contribution back to McCain Victory. Given, however, that Walton contributed a total of \$4,300, not \$6,300, to McCain Victory during the time period, it appears likely that McCain Victory and GELAC unwound the initial erroneous transfer.